STRATEGIC LEGAL ACTIVISM

FOR AUSTRALIAN ACTIVISTS

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No matter what issue it is that you're passionate about, there's a lot that you can do to influence legal action, and to hold people in positions of power accountable.

These strategic legal methods are more efficient, and can be more effective, than attempting to directly pressure an elected representative, or private company, to act on your particular issue of their own accord.

And you don't even need a party or an organization to do this. If you want, you can do it all on your own.

TYPES OF EVIDENCE (FOR SUBSTANTIATION OF YOUR CLAIMS)

The more evidence, whether direct or circumstantial, that you can provide to support your actions and claims, the more legitimacy your words and actions will be given. The more collated and abridged your evidence, the better too.

- LAWS / LAW REPORTS / BILLS

Every action taken by a public administrator, or enforcer of the law, or emergency service worker, essentially derives its authority from a specific law in a piece of legislation somewhere.
The law is central to the methods in this document. At the core of strategic litigation is the ability to prove the existence of an unlawful act, or criminal intent. If you can't point to a law being directly broken, not being upheld, or being in contradiction with another law, then you'll have to rely on 'circumstantial' evidence to support your claims.

A law report is a published record of judicial decisions in legal cases. These reports serve as published records of judicial decisions that are cited by lawyers and judges for their use as precedent in subsequent cases.

Useful links:

BarNet Jade
https://jade.io/

An online legal research platform that provides access to Australian case law, legislation, and legal commentary. Users can search, read, and analyse legal documents.

- ACADEMIC SOURCES / MAINSTREAM JOURNALISM

Academic sources are any publications that are scholarly, peer-reviewed, and that supports their claims with data, research, and well-reasoned argumentation. They will typically include citations, references, and a clear methodology.

Academic sources include peer-reviewed journal articles, academic books, dissertations and theses, government/institutional reports, and research databases and repositories.

While less scholarly, mainstream journalism can provide similar evidence of mainstream/government consensus, and 'public interest', concerning the topic. It may also bring greater legitimacy to your arguments if said journalism is published or supported by the people you are addressing, or by the people your topic otherwise concerns.

- THINK TANK REPORTS

A think tank is a research organization or institution that produces in-depth analysis and policy recommendations on various political, economic, social, or scientific issues. Think tanks are primarily made up of scholars, experts, and policy analysts, who conduct research and provide insight to influence public policy, shape debates, or inform decision-making.

A think tank report is a detailed publication produced by a think tank, which presents research findings, policy analysis, and recommendations on a specific issue. These reports are often data-driven and designed to influence policymakers, stakeholders, or the public, by providing evidence-based solutions to complex problems.

Note that when using a think tank's report as evidence, it will also carry greater legitimacy if the think tank in question is owned or supported by the people you are making your arguments to.

Useful links:

Some of the most influential think tanks in Australia include-

The Australia Institute
https://australiainstitute.org.au

Australian Strategic Policy Institute

https://www.aspi.org.au

Grattan Institute
https://grattan.edu.au

Lowy Institute
https://www.lowyinstitute.org

- REFERENDUMS / PAST VOTES / PETITIONS

A referendum is a national vote in which citizens are asked to approve or reject proposed changes to the Constitution. It requires a double majority; a majority of voters nationwide and a majority of voters in a majority of states (at least four out of six states). Referendums are used for constitutional amendments, and they are initiated by the government or Parliament.

A petition is a formal request signed by individuals urging action on a specific issue. Its legal power comes from parliamentary rules, allowing it to be presented to government bodies. It can address issues like law changes, policies, or public concerns.

Past referendum results, voting statistics, and petitions, can provide you with evidence relevant to the democratic consensus, and to 'public interest', concerning your issue.

- COMPANY STAKEHOLDERS AND CONTRACTS

The history or actions of a company's owners, management, shareholders, or partners, can provide you with evidence relevant to your claims.

Useful links:

Crunchbase
https://www.crunchbase.com/

A platform for discovering business information, including details on startups, companies, investments, and funding rounds. It's used for market research, investment analysis, and tracking industry trends.

LinkedIn
https://au.linkedin.com/

A professional networking platform used for connecting with colleagues, job searching, recruiting, and business networking.

AVENUES FOR LEGAL ACTION AND ACTIVISM

You should begin, at least, with whichever method listed below is most relevant to your issue. But for your purposes here, your ideal should be to maximize the amount of these avenues you utilize, while also maximizing the amount of likeminded individuals utilizing them - on the same issue and for the same ends.

Note that each particular avenue may also provide you with further evidence, and further access/legitimacy, when later utilizing other avenues.

People in positions of power are constantly testing the boundaries of how a law's definitions, phrasing, and intent, can be favourably reinterpreted, without any laws being broken. You can do this too.

And you may find that, doubling down on the very arguments you oppose - often referred to as 'agreeing and amplifying' - will bring you more success than a reactive critique of them, or than a conventional direct accusation of criminality.

- CRIMESTOPPERS AND CONTACTING POLICE

Crimestoppers is an anonymous tip-off service that allows the public to report crimes. Its power comes from its independence and partnership with law enforcement. You can report crimes such as drug activity, theft, fraud, assaults, and unsolved crimes.

Crimestoppers:
https://crimestoppers.com.au/

- REPORTING TO ASIO / AFP

To report something that could be considered a Federal crime, or 'suspicious behaviour', or a 'national security' risk, you can contact ASIO or the AFP.

ASIO (Australian Security Intelligence Organisation) is Australia's national security agency. Its power comes from legislation, including the Australian Security Intelligence Organisation Act. It handles threats like terrorism, espionage, and foreign interference.

The Australian Federal Police (AFP) is the national law enforcement agency. Its power comes from federal laws and legislation. It investigates crimes like terrorism, organized crime, immigration offenses, and drug trafficking.

ASIO and AFP consider suspicious behaviour as activities or actions that may indicate threats to national security, such as terrorism, espionage, or organized crime. This includes unusual surveillance, acquiring weapons, or secretive communication.

Australian law does not have a specific definition for "suspicious behaviour." It is typically interpreted as actions or activities that raise concerns about potential criminal or security threats, often assessed by context and circumstances.

Useful links:

Australian National Security Hotline
https://www.nationalsecurity.gov.au/what-can-i-do/report-suspicious-behaviour

A page containing the Department of Home Affairs' guidelines and advice for reporting suspicious behaviour, including terrorism and foreign interference.

Australian Federal Police
https://www.afp.gov.au/

- FREEDOM OF INFORMATION (FOI) REQUESTS

A Freedom of Information (FOI) request allows individuals to access government-held information. Its power comes from the Freedom of Information Act 1982. You can request documents about government policies, decisions, and records, excluding certain exemptions (e.g., national security, personal privacy).

Useful links:

RightToKnow
https://www.righttoknow.org.au/

An Australian website for making and tracking freedom of information (FOI) requests. Users can submit requests to government agencies for public records.

AusTender
https://www.tenders.gov.au/

An Australian government website for sourcing and managing public sector procurement opportunities. Users can search for and apply to government contracts.

- INTERNAL REVIEW

Internal Review is a process where a government agency re-examines its decisions. Its power comes from the Administrative Decisions (Judicial Review) Act 1977. It can review decisions like FOI refusals, administrative actions, or eligibility determinations.

Useful links:

Department of Home Affairs
https://www.homeaffairs.gov.au/access-and-accountability/freedom-of-information/access-to-information/after-your-foi-decision

A page containing the Department of Home Affairs' guidelines and advice for initiating a review of decisions made after a FOI request.

Department of Social Services
https://www.dss.gov.au/access-information/freedom-information

A page containing the Department of Social Services' guidelines and advice for initiating a review of decisions made after a FOI request.

Services Australia
https://www.servicesaustralia.gov.au/explanations-and-formal-reviews?context=64107

A page containing Services Australia's guidelines and advice for initiating a formal review of any decision made by Services Australia.

- ADMINISTRATIVE TRIBUNALS

An Administrative Tribunal is an independent body that reviews government decisions. Its power comes from specific legislation, like the Administrative Appeals Tribunal Act 1975. It can review decisions on matters like visas, social security, and tax disputes.

Useful links:

List of Australian Tribunals and Ombudsmen
https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-appendixd.docx

Direct download link to an appendix of Australian Tribunals, Ombudsmen and complaint bodies. Published by the Productivity Commission.

- OMBUDSMAN

An Ombudsman is an independent official who investigates complaints against government agencies. Its power comes from legislation like the Ombudsman Act 1976. It can investigate maladministration, unfair decisions, and service failures.

While Tribunals have the power to make legally binding decisions, an Ombudsman cannot enforce legal decisions, and can only investigate your complaints and offer recommendations.

- JUDICIAL REVIEW

If all previous options have been exhausted, or if your issue doesn't come under the jurisdiction of these bodies - such as issues concerning Constitutional Law and national security – you may choose to appeal, or otherwise proceed directly, to a court. Make sure to verify that the legislation which concerns your issue guarantees a statutory right to appeal.

Some administrative decisions are final and not subject to appeal, especially in national security, immigration, or executive discretion cases. However, judicial review may still be possible to check for legal errors or procedural unfairness.

Going through the courts can be a lengthy and costly process, which is one reason why it may be preferable to consider other options beforehand. Another reason to explore alternative avenues first is to ensure you can make the best possible case if judicial review *does* become necessary.

- INTEGRITY AGENCIES

An Integrity Agency is an independent body that investigates corruption and misconduct within government. Its power comes from specific legislation (e.g., the Independent Commission Against Corruption Act). It can investigate, report on, and recommend actions regarding unethical or illegal conduct by public officials.

Integrity agencies may periodically invite submissions from the public on specific issues, however the public can also directly contact an integrity agency to raise suggestions or complaints.

Useful links:

Australian Public Service Commission
https://www.apsc.gov.au/working-aps/integrity/integrity-agencies-group

A page detailing the functions, and member organizations, of Australia's Integrity Agencies Group.

- PUBLIC INTEREST DISCLOSURE

A Public Interest Disclosure (PID) is a report of wrongdoing within the public sector. Its power comes from the Public Interest Disclosure Act 2013. It can disclose illegal, unethical, or unsafe actions by public officials or government agencies.

Australian law defines "public interest" as matters that benefit or affect the public, such as safety, health, and justice. It covers issues like government accountability, transparency, and the welfare of the community.

Useful links:

Public Interest Disclosure procedure
https://www.oaic.gov.au/about-the-OAIC/our-corporate-information/plans-policies-and-procedures/public-interest-disclosure-procedures

A page from the Office of the Australian Information Commissioner's website, detailing the formal procedures of making a Public Interest Disclosure.

- WHISTLEBLOWING

Whistleblowing in Australia refers to reporting misconduct or illegal activity in the workplace. Legal protections come from the Public Interest Disclosure Act 2013 and other laws. Whistleblowers can legally disclose corruption, fraud, unsafe practices, and violations of law or public trust.

- PARLIAMENTARY COMMITTEES

A Parliamentary Committee is a group of members of Parliament that investigates specific issues. A Committee's power comes from parliamentary rules and legislation. It addresses issues like policy, government actions, legislation, and public concerns, often through inquiries and investigations.

The public can submit evidence, opinions, or recommendations related to the committee's inquiry, via a formal 'public submission'. The public can also attend public hearings, at which they may, additionally, apply to appear as a 'witness'.

Useful links:

Parliamentary Committees and Inquiries search
https://www.aph.gov.au/Parliamentary_Business/Committees

Parliament of Australia webpage containing a Committees and Inquiries search function, and information on getting involved in Committee inquiries, including public submission and public hearing attendance procedures.

'LOBBYING', AND CONTACTING REPRESENTATIVES/COMPANIES

Don't forget to make use of more traditional methods of contacting representatives of government/companies whom are related to, or supportive of, your issue. This can include e-mails and written letters, phone calls, or setting an appointment/visiting their offices, and talking to them face to face.

Note that are specific instances where your local council laws can diverge from, or essentially supersede, state and federal law.
For example, WA's 'Local Government Act 1995' contains a clause stating that: "nothing in the Health (Miscellaneous Provisions) Act 1911 or the Public Health Act 2016 prevents a local government from making local laws under this Act about matters relating to public health".

While there's nothing preventing you from submitting your comments as an anecdotal complaint, you may also find greater success by using the same language, evidence, and reasoning that lobbyists use.
Lobbying is the practice of attempting to influence government decisions on behalf of specific interests, such as businesses, unions, or advocacy causes. Lobbyists promote policies favourable to their goals, often by providing the same types of evidence and argumentation mentioned in this document.

Much like a lobbyist, you should use persuasive arguments tailored to the priorities of your audience, utilize evidence such as statistical data or case studies, and use cost-benefit and risk-mitigation reasoning in your arguments.

For both government and companies, but especially the latter, it is difficult to convince them to do the moral thing of their own accord, so when arguing for your issue, emphasise how the issue may affect company profits, how it may be inconsistent with company policy and advertising, if it violates company guidelines such as ESG/DEI/ERG criteria, and so on.

While it's always important to stay within the confines of the law, don't be afraid to think outside the box in terms of your methods.

For example, static or digital truck-mounted billboards can be hired to either park in an area populated by the people you would like to reach with your message, or to drive a specific route.

Alternatively, you could try reaching out to any sympathetic and influential individuals, politicians, media, companies, interest groups etc, and run a full-fledged media and advertising campaign around your issue.

There are also no laws banning 'unsolicited advertising'; except for council laws concerning letterboxes with 'no junk mail' messaging, and speech laws concerning the content of the material itself.

- INVESTIGATIVE JOURNALISM

Investigative journalism aims to cover a topic of interest, often relevant to the 'public interest', in greater depth and with more independent research than mainstream, daily news reporting. These topics usually concern serious crimes, political corruption, corporate wrongdoing, or ethical injustices.

In Australia, there are general - and specific - constitutional protections for speech

and press freedom. While laws, such as those concerning defamation or privacy, must be adhered to, investigative journalists can legally gather and report information on corruption, crime, or government misconduct.

For example, not only are there journalistic privileges and legal allowances for using publicly broadcast audio/imagery, and protections for so-called 'ambush journalism', but you can use your journalism to publicize the legal actions you are undertaking, and to explain to readers the exact methods you're making use of.
Similar to the strategy of utilizing previous legal avenues and decisions as leverage in subsequent activism, publicizing your actions can provide you with greater credibility when taking further legal action.

PETITIONS

A petition is a formal request signed by individuals urging action on a specific issue. Its legal power comes from parliamentary rules, allowing it to be presented to government bodies. It can address issues like law changes, policies, or public concerns.

Useful links:

Parliament of Australia E-Petitions list
https://www.aph.gov.au/e-petitions

Allows users to create, sign, and track e-petitions to the Australian Parliament.